REMARKS

Claims 1-10 are currently pending in this application. Each of these claims has been finally rejected under 35 U.S.C. § 103 over U.S. Patent No. 5,576,237 ("Ott") to Ott entitled Safety Trocar in view of U.S. Patent No. 5,928,154 ("Silber") to Silber et al. entitled Ultrasound Probe Housing With Reduced Control Pressure Grip And Method For Manufacturing Same. Applicants hereby traverse the claim rejections and request reconsideration and allowance of each of Claims 1-10.

In paragraph 2 of the Office Action mailed March 3, 2003, the Examiner finally rejects Claims 1-10 over Ott in view of Silber. Independent Claim 1 recites a trocar assembly including an obturator defining a longitudinal axis and having first and second ends. A sharpened tip is positioned on the first end of the obturator and a hand grip is positioned on a second end of the obturator opposite the first end. A cushioned member is positioned on at least one pressure contact surface of the hand grip.

In finally rejecting Claims 1-10, the Examiner states the following:

> "Ott discloses a trocar assembly comprising an obturator (see FIG. 2 obturator 22), a sharpened tip (see FIG. 2 tip 24), and a hand grip (see FIG. 2 handle 110). Ott discloses the claimed invention except for the cushioned member positioned on at least one contact surface of the hand grip. Silber teaches that a cushioned member is provided on the hand grip in order to enable the instrument's user to maintain control while applying minimal gripping force (see Column 3 lines 17-23). Although Silber discloses that the member is substantially non compressible (see Column 3 lines 17-19), Silber later discloses that the material used would have a low durometer and thus has a cushioning effect (see Column 3 lines 63-64). In addition, the preferred materials of the claimed invention such as Santoprene, silicone, and nitrile are specifically

> mentioned as being used to form the cushioned member (see Column 8 lines 28-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a cushioned member to the hand grip of Ott's trocar assembly in order to enable the instrument's user to maintain control of the instrument while applying minimal gripping force."

Applicants respectfully disagree with the Examiner's interpretation of Silber's disclosure. Silber does disclose that the grip layer is preferably a low durometer thermoplastic elastomer (Column 3, lines 63 and 64). However, immediately prior to stating this, Silber states the following:

> "the reduced control-pressure grip layer is preferably a substantially thin, rigid, elastomeric coating having a high coefficient of friction, a high chemical resistance, good cut resistance, and excellent adhesion to the underlying probe housing."

Thus, in Silber's preferred embodiment, a substantially non-compressible, thin, rigid coating of a low durometer thermoplastic elastomer is provided as a grip layer on an ultrasound probe housing. Such a coating, even if formed of a low durometer thermoplastic material, would not constitute "a cushioned member" as recited in Claim 1.

As discussed in the Remarks section of Applicants' Amendment filed December 12, 2002, Silber's intent is to provide an ultrasound probe housing having a grip layer which enables an administering sonographer to maintain control over the ultrasound probe during ultrasound imaging procedures while applying minimal gripping force. Silber discloses that such a grip layer prevents fatigue and enables the sonographer to perform ultrasound imaging procedures for longer periods of time without loss of control and without incurring occupational injuries. Silber in no way discloses or suggests providing a cushioned grip layer capable of absorbing the

grasping or actuating forces of a surgeon. In fact, Silber expressly teaches away from a cushioned grip layer on at least two occasions, i.e., Column 3, lines 17 and 18, and Column 5, lines 27-29. Thus, even if one were to modify Ott in view of Silber in the manner suggested by the Examiner, the modified device would not have a cushioned member positioned on at least one pressure contact surface of the hand grip as recited in Claim 1. Rather, the device would have a substantially thin, rigid, non-compressible grip layer formed of a material, such as a low durometer thermoplastic elastomer, having a high coefficient of friction. Accordingly, Applicants believe that independent Claim 1 is in condition for allowance and such an indication by the Examiner is earnestly solicited.

Applicants also note that Ott's safety trocar and Silber's ultrasound probe differ radically in structure, operation and effect. There is no suggestion or contemplation in either Ott or Silber to combine their respective teachings. Any combination of Ott and Silber to achieve Applicants' claimed trocar assembly is gleaned in light of Applicants' disclosure through hindsight and is improper.

Claims 2-10 depend either directly or indirectly from Claim 1. For the reasons discussed above with respect to Claim 1, inter alia, Applicants believe Claims 2-10 are also in condition for allowance.

It is respectfully submitted that all of the claims now pending in this application, namely Claims 1-10, are in condition for allowance. Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, she is respectfully requested to

contact Applicant's attorney at the number indicated below.

Respectfully submitted,

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